REMARKS

Claims 11 and 20 are canceled without prejudice, claims 23 and 24 are added, and therefore claims 9, 10, 12 to 19, and 21 to 24 are now pending in the present application.

In view of the following, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

With respect to paragraph two (2) of the Office Action, claims 9, 10, 12 to 19, 21 and 22 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,009,368 ("Labuhn") in view of U.S. Patent No. 6,560,525 ("Joyce").

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Also, as clearly indicated by the Supreme Court in *KSR*, it is "important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements" in the manner claimed. *See KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). In this regard, the Supreme Court further noted that "rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.*, at 1396. Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

The Office Action admits, at paragraph three (3), that the combination of the Labuhn and Joyce references does not disclose the subject matter of claims 11 and 20. The subject matter of canceled claims 11 and 20. While the rejections may not be agreed with, to facilitate matters, the features of these canceled claims has been incorporated into independent claim 9. Accordingly, the combination of the Labuhn and Joyce references does not disclose, or even suggest, all of the features of claim 9, as presented, so that claim 9, as presented, is allowable, as are its dependent claims 10, 12, 13, 21 and 22.

Claim 14 has been rewritten herein to include features like those of claim 9, and is therefore allowable for essentially the same reasons, as are its dependent claims 15 to 19.

Withdrawal of the rejections is therefore respectfully requested.

With respect to paragraph three (3) of the Office Action, claims 11 and 20 were rejected under 35 U.S.C. § 103(a) as unpatentable over the Labuhn reference in view of the Joyce reference, and further in view of U.S. Patent No. 5,230,400 ("Kakinami"), and further in view of U.S. Patent No. 6,178,372 ("Tabata").

While the rejections may not be agreed with, to facilitate matters, the features of these canceled claims 11 and 20 have been incorporated into independent claim 9. Additionally, claim 9 includes further features from the specification. In particular, claim 9, as presented, is to a method for notifying a driver of a motor vehicle equipped with an adaptive distance and speed controller, including the feature of one of activating or deactivating a takeover prompt which informs the driver that the vehicle is coming critically close to a target object, wherein the takeover prompt is further output when the driver overrides the distance and speed controller by depressing an accelerator. Support for this amendment may be found, for example,. At page 2, lines 7 to 14 of the specification. Applicants respectfully submit that the combination of the Labuhn, Joyce, Kakinami and Tabata references does not disclose, or even suggest, this feature of claim 9.

The Office Action asserts that the Kakinami reference describes the takeover prompt being output when the driver overrides the distance and speed controller. The Kakinami reference, however, merely refers to (for example, at column 7, lines 45 to 46, and column 8, lines 19 to 23) a system mode that clears the brake and cancels the speed control when the driver operates the brake. The Kakinami reference does not disclose, or even suggest, the feature in which a takeover prompt is output when the driver overrides the distance and speed controller by depressing an accelerator, as provided for in the context of the claimed subject matter. The Tabata reference does not cure this critical deficiency, so that the Kakinami and Tabata references do not cure the deficiencies of the primary references.

Accordingly, claim 9, as presented, is allowable, as are its dependent claims 10, 12, 13, 21 and 22.

Claim 14 has been rewritten herein to include features like those of claim 9, and is therefore allowable for essentially the same reasons, as are its dependent claims 15 to 19.

Withdrawal of the rejections is therefore respectfully requested.

New claims 23 and 24 do not add any new matter and are supported by the present application, including the specification. Claim 23 depends from claim 14 and is therefore allowable at least for the same reasons. Claim 24 depends from claim 9 and is therefore allowable at least for the same reasons.

In sum, it is respectfully submitted that claims 9, 10, 12 to 19, and 21 to 24 are allowable.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all of the presently pending claims are allowable. It is therefore respectfully requested that the rejections and objections be withdrawn. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is respectfully requested.

Respectfully Submitted,
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